

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0667P

Adjusted Gross Income Tax
Fiscal Years Ended 07/31/87 through 07/31/96

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, an Ohio corporation, was audited for fiscal years 1987 through 1996 because it failed to file income tax returns with Indiana. Upon audit it was discovered that the taxpayer had leased property in Indiana subjecting it to the Indiana adjusted gross income tax and supplemental net income tax. The taxpayer files consolidated federal returns but files separate returns for its other companies that have situs or nexus in Indiana. The taxpayer did not file returns because it thought that since all of its income was from leases to affiliated companies in their group, they could eliminate their income.

Taxpayer requests that the department waive the negligence penalty.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty because it failed to file income tax returns for adjusted gross that resulted in assessments for fiscal years 1987 through 1996.

Taxpayer, in a letter dated October 16, 1998 requested the department waive the penalties due to reasonable cause and states the failure to file returns was merely an oversight due to the fact that all its income is derived from intercompany sources. Taxpayer further states it files consolidated tax returns in

02980667P.LOF

PAGE #2

all states in which it does business with the exception of Indiana allowing it to eliminate intercompany revenues.

Taxpayer failed to file Indiana returns and has not provided reasonable cause to allow a waiver of the penalties assessed. Failure to file returns is considered negligence in this instance.

FINDING

Taxpayer's protest is denied.

DW/RW/MR 990426